

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

SONY MUSIC ENTERTAINMENT, *et al.*,

Plaintiffs,

v.

COX COMMUNICATIONS, INC., *et al.*,

Defendants.

Case No. 1:18-cv-00950-LO-JFA

**DECLARATION OF THOMAS KEARNEY IN SUPPORT OF COX'S REPLY TO
PLAINTIFFS' OPPOSITION TO COX'S MOTION FOR SUMMARY JUDGMENT**

I, Thomas Kearney, hereby declare pursuant to 28 U.S.C. § 1746 as follows:

1. I am Of Counsel with the firm of Winston & Strawn LLP, attorneys of record for Cox Communications, Inc. and CoxCom, LLC (collectively, "Cox") in this matter. I am a member of the bar of the State of California, and have been admitted *pro hac vice* to practice before this Court in this matter. I have personal knowledge of all facts stated in this declaration, and if called upon as a witness, I could and would testify competently thereto.

2. **Exhibit 52¹** is a true and correct copy of the following excerpts from the July 2, 2019 deposition transcript of Slawomir Paszkowski, the Rule 30(b)(6) designee of MarkMonitor Inc.:

a. 80:6-82:15

b. 86:14-87:22

¹ Exhibit numbers here follow the last exhibit number used with Cox' Motion for Summary Judgment, which referenced Exhibits 1 through 51.

c. 87:23-91:22

d. 94:20-98:12.

3. **Exhibit 53** is a true and correct copy of the Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action issued by Cox to MarkMonitor, Inc., dated January 7, 2019.

4. **Exhibit 54** is a true and correct copy of the court's March 7, 2019 Order on Cox's Motion to Compel from *Cox Communications, Inc., et al v. MarkMonitor, Inc.*, Case No. 3:19-mc-80050-SK (N.D. Cal.), located as ECF No. 14 on the docket of that case. The Court Ordered MarkMonitor to comply with Cox's document subpoena.

5. **Exhibit 55** is a true and correct copy of an email from Diana Hughes Leiden to Andrew Castricone, dated July 12, 2019.

6. **Exhibit 56** is a true and correct copy of excerpts from the September 27, 2019 hearing held before U.S. Mag. Judge John F. Anderson in this case on Cox's Motion for Discovery Sanctions and to Preclude the use of MarkMonitor Evidence.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed at San Francisco, California.

Date: October 11, 2019

/s/ /Thomas Kearney/
Thomas Kearney